

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION
VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

v.

HISHAM YOUSEF MUSHASHA,
a/k/a Joe Mushasha,
a/k/a Hisham Yousef Musha'sha,

FILED
NOV 15 2007
RICHARD W. WILKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BY

CR 07

-0734

DEFENDANT.

MMC

INDICTMENT

18 U.S.C. § 1343 - Wire Fraud (Eight Counts);
18 U.S.C. § 981(a)(1)(C);
28 U.S.C. § 246(c) - Forfeiture

INDICT

A true bill.

[Signature]
Foreman

Filed in open court this 11/15/2007 day of

[Signature]
Clerk

Bail, \$ no bail warrant
[Signature]

[Handwritten mark]

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. section 1343 -- Wire Fraud (8 counts)

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY:

For each count: 20 years prison; \$250,000 fine; 3 years supervised release; \$100 special assessment

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. Att'y ☐ Defense

☐ this prosecution relates to a pending case involving this same defendant

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW
DOCKET NO.

MAGISTRATE
CASE NO.

Name and Office of Person
Furnishing Information on
THIS FORM

SCOTT N. SCH00LS

☒ U.S. Att'y ☐ Other U.S. Agency

Name of Asst. U.S. Att'y
(if assigned)

TRACIE L. BROWN

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

HISHAM YOUSEF MUSHASH

DISTRICT COURT NUMBER

CR 07

0734

DEFENDANT

MMC

IS NOT IN CUSTODY

- Has not been arrested, pending outcome this proceeding.
- ☒ If not detained give date any prior summons was served on above charges
 - ☐ Is a Fugitive
 - ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- ☐ On this charge
 - ☐ On another conviction
 - ☐ Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT Bail Amount: NO BAIL

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

1 SCOTT N. SCHOOLS (SC 9990)
2 United States Attorney

FILED
07 NOV 15 PM 2:49
RECEIVED BY WIEKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SEAL
BY [REDACTED] [REDACTED]

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

CR 07

0734

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

16 HISHAM YOUSEF MUSHASHA,
17 a/k/a Joe Mushasha,
18 a/k/a Hisham Yousef Musha'sha,

19 Defendant.

No.:

VIOLATIONS: 18 U.S.C. § 1343 — Wire
Fraud (Eight Counts); 18 U.S.C.
§ 981(a)(1)(C) & 28 U.S.C. § 2461(c) Forfeiture

MMC

20 INDICTMENT

21 The Grand Jury charges:

22 BACKGROUND

23 At all times relevant to this Indictment:

24 1. Defendant HISHAM YOUSEF MUSHASHA, a/k/a Joe Mushasha, a/k/a
25 Hisham Yousef Musha'sha ("MUSHASHA"), was the President of F1 Management
26 Group ("F1"), a consulting firm that specialized in liquidating and winding down failing
27 businesses. F1 was located in Pleasanton, California.

28 2. Draper, Fisher, Jurvetson ("DFJ") was a venture capital firm located in
Menlo Park, California. Mobius Venture Capital ("MVC") was a venture capital firm

INDICTMENT

1 located in Boulder, Colorado.

2 3. DFJ and MVC were the two main investors in and creditors of a company
3 called FlexICs, a start-up company involved in manufacturing semiconductors. Principals
4 of DFJ and MVC became members of FlexICs's Board of Directors. FlexICs was located
5 in Milpitas, California.

6 4. As FlexICs's business failed in late 2004, the Board of Directors made a
7 decision to wind down the company. In or about January 2005, FlexICs hired Mushasha
8 and F1 to perform an Assignment for the Benefit of Creditors ("ABC"), by which
9 Mushasha and F1 were to earn a fee for liquidating FlexICs's assets, paying FlexICs's
10 outstanding liabilities, and then distributing any remaining funds to FlexICs's creditors,
11 including DFJ and MVC. MUSHASHA, as President of F1, was the sole point of contact
12 between F1 and FlexICs.

13 5. In order to wind down FlexICs's business, MUSHASHA became FlexICs's
14 Chairman, Chief Executive Officer ("CEO"), Chief Financial Officer ("CFO"), and
15 Company Secretary, with full control over FlexICs's assets and finances.

16 6. MUSHASHA and FlexICs agreed that Mushasha would sell FlexICs's
17 assets, use the sale proceeds to pay outstanding liabilities, pay himself a fee for his
18 services, and distribute any remaining proceeds to FlexICs's creditors on a pro-rata basis.

19 7. Prior to MUSHASHA's hire, FlexICs's only bank account was with Silicon
20 Valley Bank. MUSHASHA – as Chairman, CEO, and CFO of FlexICs – had signature
21 authority on the Silicon Valley Bank account.

22 8. Cowan Alexander LLC, a company engaged in the business of auctioning
23 the assets of technology companies, was hired to liquidate FlexICs's assets. On April 8,
24 2005, Cowan Alexander LLC issued to FlexICs a check in the amount of \$401,772.18,
25 with the memo notation, "Auction settlement." On April 8, 2005, Cowan Alexander LLC
26 issued to FlexICs a check in the amount of \$7,266.46, with the memo notation, "sale
27 proceeds."

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THE SCHEME TO DEFRAUD

9. Between in or around January 2005 and December 2006, in the Northern District of California and elsewhere, the defendant,

HISHAM YOUSEF MUSHASHA,
a/k/a Joe Mushasha,
a/k/a Hisham Yousef Musha'sha,

did knowingly and intentionally devise a scheme and artifice to defraud (A) as to a material matter, and (B) to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and omissions, well knowing that the pretenses, representations, promises, and omissions were materially false when made.

MUSHASHA'S CONTROL OF FLEXICS'S ASSETS AND FINANCES

10. It was part of the scheme to defraud that MUSHASHA opened a new savings account in FlexICs's name at Wells Fargo Bank ("WFB"), account number 211-8108246 (the "new FlexICs account"), by depositing a \$5,500 check from FlexICs's existing Silicon Valley Bank account. MUSHASHA had signature authority on the new FlexICs account.

11. It was further part of the scheme that between January 24, 2005, and April 14, 2005, MUSHASHA wrote seventeen checks to himself from FlexICs's Silicon Valley Bank account, totaling more than \$151,750, depositing them into his own personal checking account with Wells Fargo Bank ("personal Wells Fargo Bank account"), account number 029-6281264.

12. It was further part of the scheme that, on April 11, 2005 and April 12, 2005, MUSHASHA deposited the Cowan Alexander LLC checks described in paragraph 8 into the new FlexICs account, number 211-8108246.

13. Thereafter, between April 14, 2005, and October 18, 2005, MUSHASHA transferred more than \$450,000 from the new FlexICs account into his personal Wells Fargo Bank account, via numerous online transfers.

14. Thereafter, between April 19, 2005, and July 19, 2005, MUSHASHA transferred nearly \$300,000 from his personal Wells Fargo Bank account to various

overseas accounts, via international wire transfers. All international wire transfers to or from Wells Fargo Bank accounts are processed through a Wells Fargo Bank facility located in San Francisco.

MUSHASHA'S FALSE REPRESENTATIONS

15. It was further part of the scheme that MUSHASHA made the following material false and fraudulent statements:

(a) In August 2005, in response to an inquiry about the status of the wind-down, MUSHASHA told a FlexICs board member that the distribution was delayed due to an unreliable accountant, and that MUSHASHA expected to distribute approximately \$450,000. In fact, as MUSHASHA well knew, these statements were materially false and fraudulent because, at that time, he had already diverted to his personal Wells Fargo Bank account approximately \$300,000 of the liquidation proceeds FlexICs received from Cowan Alexander LLC.

(b) In November 2005, MUSHASHA told a board member that the distribution was delayed due to his investigation of a tax liability. In fact, as MUSHASHA well knew, this statement was materially false and fraudulent because, at that time, he had already diverted to his personal Wells Fargo Bank account a total of more than \$600,000 of FlexICs's assets.

COUNTS ONE through EIGHT: 18 U.S.C. § 1343 (Wire Fraud)

16. Paragraphs 1 through 15 are realleged as if fully set forth herein.

17. On or about the dates set forth below, in the Northern District of California and elsewhere, for the purpose of executing a material scheme to defraud, the defendant,

HISHAM YOUSEF MUSHASHA,
a/k/a Joe Mushasha,
a/k/a Hisham Yousef Musha'sha,

did knowingly transmit and cause to be transmitted the following wire communications in interstate and foreign commerce:

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Count	Date of Wire	Wire Communication	From	To
ONE	4/19/05	Wire transfer of \$9,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, Arab Bank, Amman, Jordan
TWO	4/21/05	Wire transfer of \$12,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, Arab Bank, Amman, Jordan
THREE	4/25/05	Wire transfer of \$20,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, Arab Bank, Amman, Jordan
FOUR	4/29/05	Wire transfer of \$33,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, Arab Bank, Amman, Jordan
FIVE	5/3/05	Wire transfer of \$47,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, Arab Bank, Amman, Jordan
SIX	5/9/05	Wire transfer of \$30,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, Arab Bank, Amman, Jordan
SEVEN	5/27/05	Wire transfer of \$25,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, HSBC Bank International Limited, Jersey, Channel Islands
EIGHT	6/22/05	Wire transfer of \$45,000	Wells Fargo Bank, San Francisco, California, account no. 029-6281264	Hisham Yousef Musha'sha, Arab Bank, Amman, Jordan

All in violation of Title 18, United States Code, Section 1343.

FORFEITURE ALLEGATION: 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)

18. Paragraphs 1 through 17 are realleged as if fully set forth herein, for the purpose of alleging forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

19. Upon conviction of a violation of 18 U.S.C. § 1343 as alleged in Counts One through Eight, the defendant,

HISHAM YOUSEF MUSHASHA,
a/k/a Joe Mushasha,
a/k/a Hisham Yousef Musha'sha,

shall forfeit to the United States all property, real or personal, constituting and derived from proceeds traceable to said offenses, including but not limited to:

(a) \$617,876.57, representing the total amount of FlexICs's funds fraudulently obtained by the defendant.

20. If any of said property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to or deposited with, a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

any and all interest defendant has in other property shall be vested in and forfeited to the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c) and Rule 32.2 of the Federal Rules of Criminal Procedure.

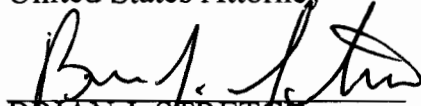
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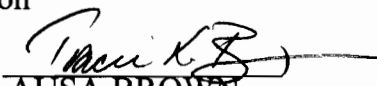
A TRUE BILL.

11-15-07


FOREPERSON

SCOTT N. SCHOOLS
United States Attorney


BRIAN J. STRETCH
Chief, Criminal Division

(Approved as to form: )

AUSA BROWN